

RIVERS MANAGEMENT ADVISORY COMMITTEE

Meeting Minutes

April 1, 2005

NHDES, Concord, NH

Rooms 111/112

9:30 am – 12:00 pm

Members Present

Bob Beaurivage
Ben Frost
Ken Kimball, Chair
Allan Palmer
Jamie Robertson
Ted Sutton,

Representing

Public Water Suppliers
Office of Energy and Planning
Recreational Interests
Business and Industry Association
Agricultural Interests
Municipal Government

Term

Sept. 28, 2007 **V**
Indefinite- **NV**
Dec. 28, 2005 **V**
Sept. 28, 2007 **V**
March 22, 2006 **V**
Nov. 16, 2005 **V**

Members Absent

Deborah Hinman
Wesley Stinson
Michele L. Tremblay, Vice Chair

Vacant

Vacant

Bill Ingham
George Lagassa
Gail McWilliam

NH Assn. Conservation Commissions
Historical & Archaeological Interests
Conservation Interests
Dept. Resources & Economic Development
NH Fish & Game Commission
Fish & Game Department
Granite State Hydropower
Department of Agriculture

Oct. 12, 2007 **V**
June 15, 2007 **V**
Dec. 28, 2005 **V**
Indefinite **NV**
Sept. 28, 2006
Indefinite **NV**
Jan. 5, 2006 **V**
Indefinite **NV**

Guests Present

DES Staff Present

Paul Currier
Wayne Ives
Marie LosKamp

Administrator Watershed Mgmt. Bureau
Watershed Mgmt. Bureau
Executive Secretary Watershed Mgmt. Bureau

I. Introductions and Acceptance of January 14, 2005 Minutes (Vote Required)

- ***RMAC Chair, Ken Kimball, opened the meeting at 9:45 a.m. Introductions were made.***
- ***Acceptance of January 14, 2005 draft meeting minutes. Vote taken and unanimously accepted minutes of January 14, 2005.***
- ***Add voting and nonvoting members at the top of the minutes. Put V and NV by members' names.***

II. 9:45 – 10:00 am: Updates on Instream Flow Studies (ISF) - Wayne Ives, Watershed Management Bureau (Vote Required for Appointments)

Names from legislative leadership for the Souhegan Water Management Planning Area Advisory committee (WMPAAC) and Technical Review Committee (TRC) were solicited to fill space vacated by legislators who did not return to office. Two members were solicited for the WMPAAC and one for the TRC. The RMAC needs to recommend names to the Commissioner for these positions.

- **A motion was made by Ted Sutton to accept the slate as presented, seconded by Bob Beaurivage, and the vote was unanimous to accept slate as presented.**

Wayne gave an update on ISF studies. The 2003 Water Use vs. Stream Flow Report is available on the web site. DES has received approval from G&C to accept the NOAA grant for the Lamprey Program. Companies submitted qualifications, the selection committee short listed four, three of these companies submitted proposals. Committee made a recommendation ranking the teams of UNH/Normandeau/UMass first, Kleinschmidt second and Gomez and Sullivan third.

The approach for the Lamprey includes high resolution imagery to generate information for the Mesohabsim (habitat simulation model) which may also be used on other rivers.

One of the nice things is that UNH/Normandeau/UMass have shown themselves to be flexible. DES wants people involved in the planning stage as much as possible. UMass identifies a generic fish from which habitat needs for all of the fish can be used to define protected flows. Multiple flows are identified for increasing levels of management. Flows can go below a protected level, but are limited in duration or magnitude. This technique allows forecasting and has a lot of advantages for the water users and dams.

Project time line is to complete adoption in May 2006. Must report to legislature in July 2007. Completion dates for adoption are to be done by 2007, then have a public hearing to get a post mortem after one year. A year isn't a whole lot of time for implementing management. At end of 2008, a report would be presented with the Department's recommendations for future instream flow legislation. Then new rules for the next rivers need to be drafted based on what comes out of the study. A copy of the time line is on the web site.

Stream Gage Network – Paul Currier

Paul told the committee that DES is looking for money to operate and continue the stream gaging that the state is responsible for through the Dam Bureau. There is less money at the state level and cut backs on federal money (\$12,000 per gage per year to maintain under USGS). We are considering using volunteer monitoring. Recently Massachusetts has done it with volunteer stream gaging long enough to know that it works. DES would develop curves and monitors, and will try it under the VRAP program.

Allan Palmer – A cooperative program, because of the decreased funding, isn't there some way to get industries to fund?

Ted Sutton - Loon Mountain pays for half and the other half is paid by the town of Lincoln. Hydro company funds the Connecticut stream gages. Individual companies on reach of the river could provide funding. This would be a big financial hit on a small operation. DES is exploring creating a volunteer program that can generate credible results and nearly real time data. It is affordable if we can find seed funds. DES has in-house people that know how to develop rating curves. The volunteers would check and read the gages. DES would maintain QA/QC.

Ken Kimball – If done right we could get partners to advocate for it. Volunteer Program doesn't answer the question for me, if USGS is continually cutting costs; it is not worth anyone's time and energy.

Jamie Robertson – A plan needs to be developed that we can agree upon to take back to our groups to push. Survey funding is declining, dam bureau used to use income from hydro projects. What gages do we need to run our dams? Add in the larger discussion of what

gages they need, they should be the core that is in the USGS program, those could be volunteer gages, come and go with the needs of the particular watershed.

Allan Palmer - Regulation needs to be based on sound science. If we don't have gages, we don't want to ask water users to fund a gage that tells them they can't use water. Instead we are saying fund the stream gage so you can use the water.

The public knows regulations are coming and that businesses will have to comply. Gages ultimately will be used by everyone. This is a tool that will help them. If none by the state and if the volunteers are not there you need something.

The plan is to work up a fact sheet on gages. Paul Currier will work on a strategic plan and the RMAC will then work on the strategic plan. Once the nucleus work is completed, a strategy will be presented to the legislature in the fall just before they convene so it will be fresh in their minds.

Ken Kimball – An additional fee on fishing license maybe added to collect a sufficient amount of money. However, Jamie just lost the soil lab at UNH that did nutrient management, which benefited everyone in the state. It was shut down because only so many farms and dairy farms were using it. We have two components, the need and the rationale, and also how are you going to fund it.

Paul Currier - Stick with just the need. There is a need for more money for stream gaging, this is what we need and why and this is the cost. This is how we will recover what we have lost already.

- **Action - RMAC to develop a strategic plan for Stream gaging in New Hampshire, to help guide allocation of funding and agency resources.**

III. 10:00 – 11:00 am: CORD Proposed Surplus Property Disposition (Vote Required)

a. SLR 04-038: Suncook River, Pittsfield, Route 28

- **Motion made by Jamie Robertson to recommend to CORD that DOT proceeds ahead with sale and Allan Palmer seconded motion, vote was unanimous. Ken will respond to CORD by email vote.**

b. RMAC Criteria for Review

Several years ago, Gretchen Hamel of the DES Legal Unit concurred with the RMAC interpretation of our authority regarding surplus land reviews. For clarification regarding the LMAC's authority, an opinion from the Attorney General's office will be pursued.

HB 540 has passed the House; it will remove CORD's authority to review and comment on surplus land reviews where the land was purchased with either highway or turnpike funds. HB 540 does not remove the RMAC's responsibility. The RMAC will look at all properties. The issue is binding upon the current legislation. The RMAC's recommendation is binding upon CORD. If it is only advisory why bother.

CORD has always had jurisdiction over state property that is being released or disposed of. HB 540 and its companion bill in the Senate originated from a study committee looking at

increasing highway funds by selling property and the argument was that CORD imposes conditions that are expensive and have reduced the market value of the property. The federal government wants DOT to dispose of land at its highest price and that money should go back to the state highway fund. No one at CORD argued against the bills. Both bills went through the house and senate very fast. There were concerns in governor's office but not sure what they are.

Does RMAC want to put forth its concerns regarding these bills and their subsequent impact to the legislative process through the governor? It will affect the LMAC equally. We are talking about rivers and lakes. The CORD review is an opportunity for all state agencies to look at and take action before the public does. One of DOT's big complaints is that CORD comes late in their process of disposal. RMAC would have to have direct contact with DOT early on and when they are in the preliminary stages. DOT does have a process, property has to be offered to municipality and county at fair market value and then to abutters, then out to auction.

Do we still want the committee to have responsibility to review these lands? If the answer is yes, we should draft letter and send to legislative committees and the governor. CORD is a coordination body only, it doesn't have opinions. Lake and river property would have to go through committees. Legislature is silent on LMAC and RMAC. They only see CORD layer and we need to make them aware of our layer.

- **Motion by Ted Sutton and seconded by Jamie Robertson that Ken Kimball write a letter stating that the RMAC still maintains legislative mandates and that an amendment to the bill be added to state this. If legislation proceeds then CORD would be removed from some SLRs. Our recommendation is that an amendment be added to the bill that the RMAC still maintains legislative mandates. In most cases we advise the commissioner. When we want legal advice we should go to AG's office.**

DOT is the biggest owner of parcels. Gretchen clarified our role, and in fact it was all rivers and not just designated rivers, not clear about how far back, standardized format so that we were consistent and that is the word binding, structured this way. AG office should clarify. AG is going to be silent. Do we want to do something, still need a vote on this motion. Asst Commissioner and Commissioner are silent on this also. That doesn't prevent us, the RMAC from doing so.

- **VOTE was unanimous to send Letter. Send to all committees that would be of interest, send to Jim Haney and send copy to the Governor and a call to Alice Chamberlain,**

LSR 05-007 - needs to be reviewed

This is a parcel of land in Hampton that will need to be reviewed. Property on 101 in Hampton, tidal creek, the property abuts St James property to center line of creek, tidal creek, purchased by the abutter, ½ acre. High tension power lines, tower on it, DOT property where there are bridges and public access and can canoe in without crossing private property. Have Wayne go there and take pictures of it. Public has access on private property to at least high water mark. State owns high tide. No public launch site. Edge of marsh and almost all of property is useless. Power lines on dry lands.

- **Obtain photos and circulate those before a vote.**
- **RMAC need email procedure for CORD reviews. Need distribution and email process.**
- **Motion by Ted Sutton and seconded by Allan Palmer to adopt proposed revisions to selection criteria for review, and the vote was unanimous.**

c. Upcoming RMAC Meeting Dates

Next Meeting Dates:

August 5, 2005 at 9:30 am

November 4, 2005 at 9:30 am

- **Ken Kimball, chair requested that the meeting minutes go out early.**

VI. 11:00 – 11:15 am: Rivers Coordinator Update

- a. 604(b) Funding to Regional Planning Commissions** – Jacquie had to revise the timing of the payments, but the G&C request is moving forward.
- b. Update – P.T. Assistant Planner Position** - Offered position but they turned us down. We are getting closer and closer to new fiscal. We hope that Beth Krumrine's position is not eliminated from the budget, if so; we will try to fill the full time assistant planner position.
- c. RMAC Membership**
 - i. Debby Hinman** – NHACC resubmitted letter to Governor and Council
 - ii. DRED** - Letter went out on 1/10/05 with no response. Called and resubmitted letter by fax on 3/30/05
 - iii. F&G Commission** - Walter Morse.

V. 11:15 – 12:00 pm Other Business

- a. Nomination Rules Update**
Nomination rule for rivers, done every so many years, we just did some minor house keeping. We filed the final proposal to the Joint Legislation Rules Committee. We are looking at the first week of this month to adopt. **Update at next meeting.**
- b. Legislation: HB 772 – 2005 Session (SB87)** –Controversial biosolids -Passed house, SB87 got in too late. What we came up with for SB87 shows what recommendations we made and it is the same as HB 772 -Class b solids and short paper fibers when applied as top dressing. Still cannot happen within so many feet of the water. Voted on by 13 people, Deb Hinman's vote was the only negative vote. There was dissent from another member. It will go before next year's General Court. Once a committee takes it up next session, they can change it anyway they want it.
 - **Ted Sutton made a motion to support bill as introduced with a 250 feet setback as in HB 722**
 - **Ted Sutton withdraws motion and request that HB 772 be brought up at the August Meeting.**

- c. **HB 540 Relative to disposal of real property** - (passed House)
- d. **SB 140 Relative to the acceptance of in-lieu payments instead of mitigation of wetland areas** (passed Senate) Requires that regulations be drawn up. At the January RMAC meeting, Lori Sommer of DES Wetlands Bureau provided a detailed overview regarding this issue. The plan is to put money in a pool to protect selected wetlands instead of creating a number of smaller, less functional wetlands. Some of the final details on sums were yet to be determined. Rules have not moved forward, because the legislation to authorize those rules is in committee. DES has been working on this for a long time. Fee structure was not provided
 - **Wayne to research fee structure, check with L. Sommer and give an update to the RMAC.**
 - **Jamie Robertson made a motion and Bob Beaurivage second the motion to change the meeting minutes to the format that the LMAC currently uses.**
- e. **HB-432 (Relative to the septage handling and treatment facilities grant program and the septage and sludge land application restrictions) Sites that are grandfathered** - Jamie Robertson would like to make a motion.
 - **Ted Sutton made a motion to extend grandfathering of HB432 for 2 years, overlap with HB722, seconded by Allan Palmer, and vote was unanimous for Ken Kimball to send a letter to David Babson, Chairman of A&E Committee with a copy to Jacquie Colburn, Wayne Ives and Paul Currier.**

VI. Next Meeting Date –

August 5, 2005

VII. Motion to Adjourn

- **Motion to adjourn made by Bob Beaurivage and seconded by Allan Palmer, unanimous vote to adjourn meeting.**

Adjourned at 12:30 p.m.